

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

)
IN RE: CROP INPUTS ANTITRUST) 4:21-MD-2993-SEP
LITIGATION)
) RE: *Krieger et al. v. Bayer Cropscience, LP*
) et al., Case No. 4:22-cv-1261
)

**STIPULATION REGARDING PROCESS FOR RESPONDING
TO KRIEGER COMPLAINT AND PROPOSED ORDER**

Plaintiffs Mark Krieger and Krieger Family Farms LLC (together, “Krieger Plaintiffs”) and Defendants Bayer CropScience LP, Bayer CropScience Inc., Corteva, Inc., Pioneer Hi-Bred International, Inc., Cargill Incorporated, BASF Corporation, Syngenta Corporation, Winfield Solutions, LLC, Univar Solutions, Inc., Federated Co-Operatives Ltd., CHS Inc., Nutrien Ag Solutions Inc., Growmark Inc., Growmark FS, LLC, Simplot AB Retail Sub, Inc., and Tenkoz, Inc. (collectively, “Defendants”), enter into this stipulation regarding the process for Defendants’ response to the complaint filed in *Krieger et al. v. Bayer Cropscience LP et al.*, Case No. 4:22-cv-1261 recently transferred to this Court, subject to the Court’s approval.

WHEREAS, the Krieger Plaintiffs originally filed their complaint (“Krieger Complaint”) in the Southern District of Indiana, see *Krieger et al. v. Bayer Cropscience LP et al.*, 2:22-cv-229 (S.D. Ind.), ECF No. 2;

WHEREAS, the Judicial Panel on Multidistrict Litigation subsequently transferred the *Krieger* case to this District as part of multidistrict litigation proceedings already pending before this Court, see 4:22-MD-2993, ECF No. 229 (Conditional Transfer Order (CTO-4) dated November 28, 2022 transferring *Krieger* case), with the case assigned to this district as Case No. 4:22-cv-1261;

WHEREAS, the Krieger Complaint raises claims substantially similar to the claims in the currently operative Consolidated Amended Complaint (“CAC”) in the MDL, 4:21-MD-2993 ECF No. 133;

WHEREAS, Defendants have filed motions to dismiss all claims in the CAC (“Motions”), *see* 4:21-MD-2993, ECF Nos. 141-150, including one motion applicable to all Defendants and separate motions as to certain defendants;

WHEREAS, the Motions are fully briefed and awaiting oral argument or decision from this Court; and

WHEREAS, the *Krieger* Plaintiffs, Defendants, and their counsel wish to conserve judicial resources and conduct proceedings on the Krieger Complaint in a reasonably efficient manner.

IT IS STIPULATED AS FOLLOWS:

1. All defendants named in the Krieger Complaint acknowledge receipt of service of process as of the earlier of (a) the date on which a defendant signed a waiver of service of summons, or (b) the date on which an order is entered on this Stipulation. This acknowledgment by each defendant is without prejudice to any defenses that such defendant may have, including without limitation, personal jurisdiction.

2. Subject to the Court’s approval of this Stipulation, Defendants’ time to answer, move, or otherwise respond to the Krieger Complaint under Federal Rule of Civil Procedure of 12 is stayed as provided below:

- a. If the Court denies the Motions in their entirety, Defendants will respond to the Krieger Complaint on the same schedule as provided for responding to the CAC (assuming that the Krieger Complaint is not consolidated with the CAC).

- b. If the Court grants the Motions in their entirety and dismisses the CAC with prejudice, the Krieger Complaint will also be dismissed with prejudice.
- c. If the Court grants the Motions in part and denies them in part (or grants one or more of the separate motions as to a particular defendant), the Court's order will apply with equal force to the Krieger Complaint.
- d. If the Court grants leave to amend the CAC, the Krieger Plaintiffs may amend their complaint to the same extent as permitted for the CAC and within the same time, provided that notwithstanding anything to the contrary elsewhere herein, the Krieger Plaintiffs shall retain their rights under Fed. R. Civ. P. 15(a)(1) If the Krieger Complaint is not consolidated with the CAC (as further amended), then Defendants will answer, move, or otherwise respond to any amended Krieger Complaint at the same time as they are required to respond to the amended CAC or at such time as is provided by the Fed. R. Civ. P., whichever is later.

WHEREFORE, the Krieger Plaintiffs and Defendants respectfully request that the Court approve this Stipulation and enter the Proposed Order.

[Signature Pages to Follow]

Respectfully submitted,

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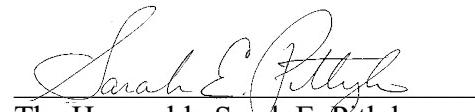
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Counsel for Defendant Univar Solutions Inc.

ORDER

Pursuant to the Stipulation by the Krieger Plaintiffs and Defendants filed in the above-captioned action, ECF No. 231, and for good cause shown, IT IS HEREBY ORDERED that the Krieger Plaintiffs and Defendants shall be bound by the terms of said Stipulation.

DATE: December 12, 2022


The Honorable Sarah E. Pitlyk
United States District Judge

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was served on all counsel of record via the Court's e-filing system on this 9th day of December, 2022.

/s/ *Edwin G. Harvey*